

A CRITICAL DISCOURSE ANALYSIS OF SELECTED MARRIAGE DISSOLUTION PROCEEDINGS IN THE FEDERAL HIGH COURT, ABUJA

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Abstract

This study examined a critical discourse analysis of selected marriage dissolution proceedings in the Federal High Court, Abuja to investigate the linguistic choices deployed by both respondents and petitioners to request for Court's endorsement. Ten purposively sampled cases decided in the Federal High Court of Abuja between 2016 and 2017 constituted the data for the study. The hearings were witnessed, tape-recorded and transcribed to extract relevant sentence structures which contained the linguistic means of analysis. The identified expressions were interrogated using qualitative method of analysis by relying on the linguistic tool of nominalisation, an aspect of Critical Discourse Analysis' theoretical framework pioneered by Jeffries. The findings revealed that both the petitioners and the respondents utilize copious examples of nominalised constructions to convey their opinions and dispositions towards the marriage. The petitioners and the respondents also rely on word nominalisation to present their worldviews about their partners as well as their unpalatable experiences in the marriage, which warranted their call for dissolution of the marriages. The study suggested that other CDA tools like enumerating, passivisation, modality, transitivity and negation could also be applied to marriage dissolution cases to determine stance and face in proceedings.

Key words: Critical Discourse Analysis, Federal High Court, marriage dissolution, nominalization, proceedings.

Introduction

Law and the justice systems remain an important component of a society. The justice system is one of the most directly powerful institutions in a society, and it is subject to the rule of law, (Gibbons, 2003). The linguistic discourse at this level has been the concern of researchers. It should be noted that courtroom discourse is different from the common place verbal exchanges that are witnessed in day-to-day human interactions. Linguistic researches carried out on such discourse are usually with the goal of probing these distinct linguistic features. This means that legal discourse captures the various relationships between language use and the realm of law. Shuy (1993: 47) admits that one of the defining features of Discourse Analysis is that, it is capable of being applied to various settings and contexts just like Critical Discourse Analysis.

Legal discourse is an aspect of language for specific purposes. Law is most often considered as an oral activity. Thus, a good command of spoken language is a necessary criterion. The language of law has several pragmatic characteristics. First is the turn-taking system in court (Onadeko, 2001). This distinctiveness of legal discourse can be attributed to the explicit rules of evidence that govern verbal interactions in the courtroom to issues bordering on Critical Discourse Analysis theory; how language manifests worldview, ideology, control, inequality and discrimination among discourse participants in the courtroom (Bloomaert & Bulcaen, 2000). Another aspect of legal discourse that is of interests is the power asymmetry among the discourse participants in the court setting. While the presiding judge has the ultimate authority, the prosecutors and the defence lawyers have authority derived from superior legal knowledge base, and from the rules that govern formal discourse in court. Linguistic studies of courtroom proceedings in the past have been concentrated on using Discourse Analysis as the linguistic theory to analyse the question-answer sequences of a direct and cross examination, turn-taking and objections in the courtroom. However, this study examines the linguistic features of courtroom proceedings using Jeffries' (2010)

Critical Discourse Analysis theoretical framework in order to identify the socio-political and ideological background that underlines the proceeding of marriage dissolution cases. With this aim, the following objective is set to determine how the linguistic choices of the participants in courtroom proceedings have reflected their ideological and socio-political experiences in marriage.

Literature Review

According to Moeketsi, (1999), the courtroom is a place where legal trials take place and where crimes are judged. It is a place of power and control. The language of the courtroom is very significant because it is one linguistic genre that holds considerable potential that affects the outcomes of cases. The focus of studies on courtroom language, like this one, is to analyse the language of all players in the courtroom. Among them are accused persons, witnesses, lawyers, and judges. One of the linguistic models that has been applied to the study of the language of courtroom is Critical Discourse Analysis.

Critical Linguistics and Critical Discourse Analysis (CDA) are closely related. While the latter is often employed as an umbrella term for both, the terms Critical Linguistics (CL) and Critical Discourse Analysis (CDA) are often used interchangeably. In fact, recently, the term CDA seems to have been preferred and is being used to denote the theory formally identified as Critical Linguistics which originated with Roger Fowler and his colleagues at the University of East Anglia, most notably Robert Hodge, Gunther Kress, and Cowy Trew who set out to uncover how social meanings, such as power and ideology, are expressed through language and how language in this respect may impact on the way we perceive the world (Fowler, 1991).

According to Verdonk (2002), linguistic choices in texts are consciously or unconsciously motivated by particular value systems and beliefs. The resulting discourses are therefore always presented from some ideological perspective. This politicization is the business of what is variously called Critical Language, Critical Linguistics or Critical Discourse Analysis. Critical Discourse Analysis (CDA) investigates the

relations between language and society (Norgaard, Montoro and Busse, 2010). They explain further that it assumes that language plays a crucial role in creating, maintaining and legitimating inequality, injustice and oppression in society. The most important aims of CDA is identified as raising awareness of the power of linguistic constructivism (language and constructing reality) and its impact on the society.

Linguistic tools for analysis in CDA are mainly drawn from Holliday's (1994, 2004) Systemic Functional Grammar. This is visible in the works by CDA proponents such as Fairclough (1989) or Van Leeuwen (2005), for example. Halliday's Grammar is particularly suited for CDA because of its orientation towards context, that is, situational, generic and ideological (Norgaard et al., 2010). Furthermore, its three-dimensional approach to language - the textual, interpersonal and ideational - provides CDA with a broad range of grammatical tools for analysis as well as constructed nature of discourse and 'enacted hegemonic genres, specific ways of using language to achieve purpose of social domination' (Van Leeuwen, 2006 :290)

Critical Discourse Analysis (CDA) is a method of Discourse Analysis that reveals the way discourses are used every day for signification, power relation and ideological perception and expression. As observed by Toolan (2002), the emergence of Critical Discourse Analysis presupposes *prima facie* that discourse analysis is not critical and pragmatic enough and that the vast areas of the focus of discourse analysis have left issues like politics and worldview to be treated like others. The major focus of CDA is linguistic communication as an instrument or discourse employed to construct and champion either individual or group interest like personal ideology, politics, sexism and social class. Critical Discourse Analysis views man as essentially a political animal instinct is always manifesting in his words and deeds. As a result, a conscious attempt must be made to critically assess the political undertone behind his utterances (Van Dijk, 1988). Wodak (1992: 19) calls this approach "Critical Linguistics" and describes it as "an inter disciplinary approach to language study with a critical point

of view for the purpose of studying language behaviours in natural speech situations of social relevance”.

Fairclough (2000) identifies three central tenets of CDA, namely; social structure (class, status, age, ethnic identity and gender); culture (the generally accepted norms of behaviour in the society); and discourse (the words we use). The goal of CDA is to determine the relationship between these central tenets. Our discourses reflect the societal norms and beliefs i.e. we say things in conformity with the way they should normally be said in our society, and there are certain things we do not say because the society has constrained us not to say them. Likewise, our identity in the social structure is shown in the way we think, act and speak. A text is a record of communication, which involves the presentation of facts, beliefs and the construction of the identities of participants. It is produced by socially-situated speakers. It is therefore more than just words spoken or written on the pages of books, but how such words are used in particular social contexts (Huckin, 1997). McGregor (2003) identifies an aspect of CDA, which she calls the discursive practices. These are rules, norms and mental models of socially acceptable behaviour in specific roles or relationship used to produce, receive and interpret the message. Discursive practices then are the processes involved in speaking, writing, hearing and reading texts.

Critical Discourse Analysis (CDA) as an analytical technique is aimed at critically investigating social inequalities as manifest in, and legitimized by language use (Wodak, 2001). It is a type of analysis of discourse which contributes to social and cultural research by examining how language functions in specific social contexts like the courtroom. In this study, attention is paid to language behaviours of the petitioner and the respondent by examining their language use in their attempt to establish their cases in the court.

Methodology

A purposive sampling of ten marriage dissolution cases decided in the Federal High Court of Abuja between 2016 and 2017 constituted

the data for the study. The cases were physically witnessed, tape-recorded, and then transcribed. Prominent statements from both the respondents and petitioners were judgmentally identified in the proceedings. The judgmental approach was deliberately employed to select expressions replete with nominal constructions. The study deployed a qualitative analysis approach by relying on the linguistic tool of Nominalisation, an aspect of Critical Discourse Analysis (CDA) theoretical framework pioneered by Lesley Jeffries.

Theoretical Framework

The theoretical framework preferred in this study is the Fairclough's Critical Language Study (CLS) which is a methodology for analysing language and its role in shaping social relationships, power dynamics, and cultural norms. It is a framework which combines linguistics, sociology, and critical theory to examine how language influences and reflects social structures.

CLS views language as a site of power struggles, where social relationships and ideologies are constructed and contested. And language is also seen as a social practice or social action which shapes and reflects social contexts. This aspect of CDA involves explication of language texts (spoken or written) to identify patterns, relationships, and power dynamics through three-dimensional analysis; text analysis by examining language structures, vocabulary, and grammar; discursive practice analysis by looking at how texts are produced, distributed, and consumed; and sociocultural practice analysis by situating texts within broader social and cultural contexts.

By applying CLS in this research, it can be uncovered how language shapes the understanding of the marriage dissolution cases in courts, and how it can be used to promote social justice and change.

Critical Discourse analysts rely on linguistic tools among which are transitivity, presupposition, modality, negation, exemplifying and nominalisation. Fairclough (2010) Observed that nominalisation is a linguistic way of embedding information in a sort of fixed form which makes it difficult for further argument. Jeffries (2010) explains further

that the most obvious thing that text do is to name and to describe with constructions that reveal what the text projects. Speakers or writers embed information in nominal phrases as propositions of ideological entities. This nominal construction is to achieve the writer or speaker's ideological perception about issues at hand aimed at "forcing" the readers/listeners to accept the specific point of view expressed. A prominent way of achieving this nominalization is noun phrase constructions, where the head word, usually a noun is either pre/post-modified by a set of adjectives, or by prepositional phrase(s). This linguistic means places can be deployed to achieve some ideological positions in discourse. The analysis explored in this paper is based on nominalization in the selected marriage dissolution cases.

Data Analysis

Copious nominal constructions are available in courtroom discourses having to do with examination and cross examination of petitioner and respondents in marriage dissolution hearings. Samples of these nominal constructions are analysed in the extracts below:

He told the court that his marriage to the respondent has been a disappointment and nightmare as the respondent was always rude to him. FCT/HCPET/90/2017

In the above excerpt, the petitioner through the use of a nominal construction has expressed his candid perspective about his marriage. The petitioner, in his bid to establish a case for the court to grant his prayer for the dissolution of his marriage with the respondent resulted to painting a bad picture of the marriage situation by conjoining two negative nouns, 'disappointment and nightmare'. The two nouns modified by indefinite article 'a' single out the ugly experience. In the nominal phrase 'a disappointment and nightmare', the petitioner has captured his experience in the marriage. The choice of the two nominals 'disappointment' and 'nightmare' summarizes that one, the petitioner's goal in the marriage has not been met. The petitioner expresses his disappointment in the marriage and by implication his

disappointment in the respondent (wife). It suggests that the roles and duties expected of the respondent have not been played or carried out. Being a wife comes with certain responsibilities, these responsibilities when neglected causes disaffection and disharmony in a marriage.

Second, the nominal 'nightmare' as used by the petitioner summarizes an ugly experience. 'Nightmare' as a linguistic choice, has an image of darkness and loneliness. It is like a lonely journey in the wilderness that no one desires to embark upon. So, the Petitioner's description of his marriage as a 'nightmare' imposes the ideological perspective of a marriage filled with woes, fear and melancholy. The Petitioner imposes on the Court through this choice of words that his marriage to the Respondent is better described as solitary confinement, just as one in a nightmare is in solitary confinement.

There was a barrier in communication as the respondent was always angry... FCT/HCPETII19/2016

In another case of nominalisation deployment, the petitioner in the suit NO FCT/HC/PET/119/2016 expresses an experience of a missing link in her marriage. The Petitioner uses the phrase 'a barrier in communication' which suggests that the marriage has been devoid of communication. In every relationship, marriage inclusive and particularly, communication is central and key. Each of the partners in a relationship must have the means of conversing and sharing thoughts, emotions and experiences. In a marriage, where there is a barrier to the communication channels, such marriage is definitely heading for the rocks. The relationship is on the path of dissolution. The Petitioner avails the Court of the absence of the most important factor in marriage. The Petitioner by her careful selection of words to name the state of things in her marriage as regard the Respondent's disposition to the relationship establishes that the marriage has been boring and unproductive. She establishes that her inability to communicate with her husband (Respondent) is enough reason to justify her call' for the dissolution of the marriage.

In the petition above, the respondents, who was not in Nigeria as at the time of filing the petition by the Petitioner sent a mail to the court as his response to the petition and other allegations raised by the Petitioner.

.. so her claims that we lived together was arrant mendacity and gross falsification of statement. FCT/HC/PET/108/2017

The Respondent, in his response, describes the Petitioner's claims as 'arrant mendacity and gross falsification of statement'. This naming processes by the respondent conveys a deep meaning, and therefore, requires some explications. The two modifiers, 'arrant' and 'gross', speak volumes about the Respondent's perception. The Respondent, in an attempt to discredit or disapprove the Petitioner's claims that they ever lived together as husband and wife, had to employ the vivid descriptive modifiers. The Respondent insists that they never lived together and so, all her claims about his behaviour could not have been true. The respondent further makes some statements which were aimed to buttress his position as regards the dissolution of the marriage.

She was very arrogant, uncooperative and unsubmitive to her ex-husband. FCT/HCIPET/89/2016

In the above excerpt, the Respondent is emphatic in his choice of words by the use of the adjectives which serve as the complement of the pronoun 'she'. The Respondent is very much categorical about the negative attributes of the Petitioner. 'Arrogant' 'uncooperative and unsubmitive' are apt negative linguistic choices of naming to carpet the petitioner. These complements of the subject 'she' in the sentence are carefully deployed by the Respondent to drive home his deference. The adjectives reveal that the Petitioner, according to the Respondent, has failed to exhibit all the qualities of a good wife. The words 'her ex-husband' in the prepositional phrase 'to her ex-husband' is indicative of a self-withdrawal, and subtly offered explanation for the divorce which the woman recorded first. The Respondent is already referring to himself as ex-husband even without the Court granting the Petitioner's request

for the dissolution of the marriage. Knowing well that the woman had not been married before, the husband deliberately used the word 'ex-husband' to show his intense desire to quit the marriage. The Respondent is conscious of the choice of the word and sets out to create an impression for the Court that he is through with the marriage by naming and describing himself as 'ex-husband'. The goal of nominalisation as a linguistic tool of CDA is for the writer or speaker to create a proposition that would be difficult to contravene. The Respondent's reply continues:

... the mere reason am consenting to her request for your dissolution of unworkable, unrealistic and unnecessary marriage.
FCTHCPET/105/2017

The Respondent has also demonstrated his worldview and perception about the marriage in the address made to the Court. While addressing the Judge, he describes the marriage as unworkable, unrealistic and unnecessary in the nominal phrase 'our unworkable, unrealistic and unnecessary marriage'. He establishes, through the nominal phrase, that one, whatever the shortcomings, the marriage can never work, and two that the future the marriage (the Respondent and the Petitioner as husband and wife) cannot be realized and, three, the marriage is not needed in the first place. Furthermore, the Respondent, while rounding off his submission, made the following statement:

I should look forward to your eventual termination of our irreconcilable and unresolvable marital quagmire which has now ended in relational fiasco. FCTIHCIPETI90/2017

The choice of the word 'quagmire' by the Respondent is instructive. The word signifies hopelessness. The noun phrase 'our irreconcilable and unresolvable marital quagmire' is loaded with explicit adjectives/modifiers 'irreconcilable' and 'unresolvable' to modify the noun 'quagmire'. The hopelessness of the situation (the marriage) which is already expressed in the noun 'quagmire' is further intensified with the modifiers 'irreconcilable and 'unresolvable'.

The relative clause as identified by Jeffries (2001) is another form of nominalization tool. In the above extract, the relative clause, "... which has now ended in relational fiasco" further describes the situation of the marriage. The Respondent expresses his position about the marriage. The clause modifies the word 'quagmire' which is a reflection of hopelessness of the situation.

I had also been subjected to verbal and psychological abuse, unfair and hurtful criticism... FCT/HC/PET/1 1/2016

In the excerpt above, the petitioner expresses her experience in the marriage as a result of the treatment she got from the respondent. She establishes that the abuses she suffered from the Respondent is verbal, and these consequently affected her mental state. The reference to psychology by the Petitioner is imperative as it points to the dangerous dimension of the situation. Psychological health is a critical and sensitive matter which should be properly handled. The Petitioner calls the attention of the court to this by naming and describing.

Conclusion

The study identifies that both the husband and the wife (the Petitioner and the Respondent or Vice Versa) employ nominal phrases to express their view about their marriage. Perceptions of people seeking divorce in marriage are mostly expressed through nominalisation in order to convince the Court to grant their prayers. These nominalizations are used to describe unpalatable marriage situations, shared ugly experience in marriage, negative attitudes or name-calling of either party. The Petitioner and the Respondent resort to the use of nominalisation to conscript the Court to accede to their plea for marriage dissolution.

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